

60,246-336
10884/CAR017976REMARKS

Applicant wishes to thank the Examiner for the detailed remarks, and the allowability of claims 6, 7, 10-17, and 18-20. Claims 1, 6, 7, 10, 12, 18, and 21 have been amended and claim 5 has been cancelled. Accordingly, claims 1-4 and 6-21 are pending.

Claims 1-21 were rejected under 35 U.S.C. §112, second paragraph. Claims 1, 10, 18, and 21 were rejected as vague as other claims are directed to a method of controlling an HVAC system. Applicant has specifically amended the preamble of each of the independent claims to recite computer control to eliminate any ambiguity. However, Applicant considers the claim elements themselves to recite an automatic or computer controlled method as implicit from the recite limitations.

Claims 1-5, 8-9 and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over *Baldwin*. Applicant respectfully traverses this rejection. While it is well settled that terms in a claim are to be given their broadest reasonable interpretation in proceedings before the PTO, this interpretation must be consistent with the specification, with the claim language being read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Bond*, 910 F.2d 831, 833, 15 USPQ2d 1566, 1567 (Fed Cir. 1990); *In re Sneed*, 710 f.2d 1544, 1548, 218 USPQ 385, 388 (Fed Cir. 1983).

Here, the Examiner is suggesting an interpretation that contradicts and is not consistent with the specification of *Baldwin*. Notably, the Examiner's suggestion that "inferring" can be "conclude", "judge" or "gather" is not supported by the dictionary definition. In fact, the attachment from www.webster.com illustrates that although "infer" may have synonyms of conclude, judge, or gather, the proper definition of "infer" is: to derive as a conclusion from facts or premises. As such, Applicant disagrees with the Examiner's interpretation of the term "infer."

Nonetheless, the section from *Baldwin* which the Examiner has cited fails to disclose or suggest the inferring limitation as cited by Applicant. *Baldwin*, in fact, reconfigures the mode of operation, but does not infer whether a stage of an HVAC component is a failed stage. That is, *Baldwin* does not teach how the failed stage is identified, but only what to do after it has failed.

Furthermore, Applicant has amended claim 1 to recite that the inferring step includes inferring from a relationship between the temperature of the controlled area and a time period.

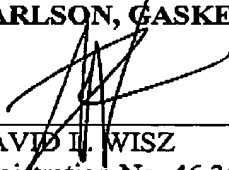
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Under no just interpretation can *Baldwin* disclose or suggest this limitation. The claims are therefore properly allowable.

Please charge \$600.00 to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, for 3 additional independent claims. If any additional fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,
CARLSON, GASKEY & OLDS, P.C.



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